

## **REMARKS**

### **Summary of the Office Action**

Claims 1-25 are the subject of a restriction requirement. The Examiner identifies four Species from which the Applicant is to make an election.

### **Summary Response to the Office Action**

Claim 23 has been canceled without prejudice or disclaimer and claims 1-22, 24 and 25 have been left either in their original or previously presented form. Accordingly, claims 1-22, 24 and 25 are currently pending and subject to examination. An election of Species is being made with traverse.

### **Information Disclosure Statement**

An Information Disclosure Statement and Form PTO/SB/08a that includes a copy of the Search Report issued by the Patent Office of the United Kingdom of Britain for related application GB 0217226.0 is filed concurrently herewith. This submission is made in accordance with the Applicant's duty of disclosure. The Applicant respectfully requests consideration of the references cited in the Form PTO/SB/08a.

## **Election/Restrictions**

The Official Action dated June 27, 2008 has been received and carefully noted. The above provisional election and the following remarks are submitted as a full and complete response thereto.

The Office Action takes the position that the present application discloses four distinct inventions and is requiring the Applicants to elect a single disclosed invention. The species are identified as follows:

Species I     A roadside traffic monitoring system comprising first and second sensors; and verification means for the sensors, as claimed in claims 1-20 and claim 22

Species II     Apparatus for assessing the accuracy of a roadside traffic measurement station having a primary and secondary sensor, as claimed in claims 21 and 25.

Species III    Point speed measurement system comprising a Doppler-effect speed sensor and a vehicle detection to trigger Doppler-effect sensor, as claimed in claim 23.

Species IV    Data sensing system with primary and secondary sensors with synchronization means for ensuring that the primary and secondary sensors measure the parameter at the same time, as claimed in claim 24.

Claim 23 has been canceled thereby eliminating Species III from the claims at issue. The Office Action alleged that the "species are independent and distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record."

This requirement is traversed. The Office Action failed to identify any mutually exclusive characteristics. Further, the proper comparison is not what is claimed, but what is disclosed. The Applicant then must identify which claims read on the disclosed, elected species. The Office Action is incomplete and the requirement is not properly supported.

The Applicant respectfully agrees with the Examiner that independent claims 1 and 22, and dependent claims 2-19, belong to the same species, i.e., Species I. However, the Applicant disagrees with the Examiner's contention that several patentably different species are identified in the application. The claims refer to different elements of the invention and not patentably different species.

In particular, the Applicant respectfully disagrees with the Examiner's contention that independent claims 1, 21 and 24 represent distinct species. In support of this contention, the Examiner appears to rely on nothing more than the preamble of each of the independent claims. However, the Applicant respectfully submits that there is nothing inherently mutually exclusive about a "roadside traffic monitoring system," as claimed in claim 1, "an apparatus for assessing the accuracy of a roadside traffic measurement station," as claimed in claim 21, or "a data sensing system," as claimed in claim 24. Rather, each of these claims specifies a system or apparatus with a sensor structure that is nearly identical in both structure and in operation. For example, claims 1 and 21 both refer explicitly to a "primary sensor", a "secondary sensor" and either a "conditions sensor" or a "condition measurement means." In both claims 1 and 21, the "conditions sensor" or "condition measurement means" determines whether

“predetermined conditions” are met. Both independent claims 1 and 21 also claim a “verification means” for comparing measurements made by the primary and secondary sensors. Similarly, claim 24 refers explicitly to a “primary sensor,” “a secondary sensor” and a “conditions sensor.” Claim 24 also explicitly recites that the “conditions sensor” determines whether “predetermined conditions” are met and further recites a “validation means” for comparing measurements made by the primary and secondary sensors. If the Examiner insists on maintaining that independent claims 1, 21 and 24 represent distinct species, the Applicant respectfully requests that the Examiner point out and describe the features of each of the species to which these claims supposedly relate and explicitly identify the mutually exclusive characteristics of those species.

It is also respectfully submitted that the subject matter of all Species I, II and IV is sufficiently related that a thorough search for the subject matter of any one Species would encompass a search for the subject matter of the remaining Species. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP § 803 in which it is stated that “If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested. As noted above, the Applicants provisionally elects Species I and wish to

proceed with at least Claims 1-20 and claim 22 and, preferably, with claims 1-22, 24 and 25.

### **CONCLUSION**

In view of the Applicant's above election, the Applicant respectfully submits that the Restriction Requirement should be withdrawn. However, a provisional election has been made. Accordingly, the Applicant respectfully requests examination of elected Species I and wish to proceed with at least Claims 1-20 and claim 22 and, preferably, with claims 1-22, 24 and 25, being examined on the merits.

Please charge any fee deficiency or credit any overpayment with respect to this paper to Deposit Account Number 01-2300, referencing Attorney Docket Number 028557-00001.

Respectfully submitted,

Arent Fox LLP

A handwritten signature in cursive script that reads "Jack Smith". The signature is written in dark ink and is positioned above a horizontal line.

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